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U.S. Department of Justice

United States Attorney Southern District of New York

The Silvio J. Mollo Building One Saint Andrew's Plaza New York, New York 10007

August 14, 2022

BY ECF

The Honorable Katherine Polk Failla United States District Judge Southern District of New York Thurgood Marshall U.S. Courthouse 40 Foley Sq. New York, NY 10007



Re: <u>United States v. Cristobal</u>, 20 Cr. 463 (KPF)

Dear Judge Failla:

The Government has learned that, this morning, the confidential source (the "CS") tested positive for COVID-19. Based on the courthouse's protocols, the Government understands that the first day that the CS could enter the courthouse—Day 11, assuming his symptoms are improving and he has no fever—would be Wednesday, August 24, 2022. The Government expects the CS to be among the earliest witnesses in the trial and that, given the order of proof, it would not be practicable to call him out of order.

Accordingly, the Government respectfully requests that the commencement of trial be adjourned by two days, until August 24, 2022. The Government expects its case-in-chief to last just over a week, which is less than the previous estimate of two to three weeks. Defense counsel consents, but advises that counsel has another trial beginning September 19, 2022, and may request longer trial days if necessary to avoid a conflict. The Government has no objection to that request if it becomes necessary.

In the event this application is granted, the Government also respectfully moves for the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h), because the purpose of the adjournment is to permit a witness to testify at trial.

Respectfully submitted,

DAMIAN WILLIAMS United States Attorney for the Southern District of New York

by: // S/ Jun Xiang / Kyle Wirshba / Derek Wikstrom Assistant United States Attorneys (212) 637-2289 / -2493 / -1085

CC (By ECF)

Kristen Santillo, Esq. Fern Mechlowitz, Esq. Michael Musa-Obregon, Esq.

The Court intends to discuss the issue raised in the Government's above letter with the parties at the final pretrial conference scheduled for **August 17, 2022, at 10:00 a.m.** in Courtroom 318 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York.

Dated: August 15, 2022

New York, New York

SO ORDERED.

HON. KATHERINE POLK FAILLA UNITED STATES DISTRICT JUDGE

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